

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SHADEESHA BROWN,

Plaintiff,

- against -

THE CITY OF NEW YORK, BRIAN McALEAR,
KEITH HOCKADAY, JOAQUIN MORALES,
ROBERT DOWNES, THOMAS ALBANO,
GERARD FLOOD, WILLIAM HART, TIMOTHY
MURPHY, and KENYETTA ROUSE,

Defendants
-----X

11CV1068(AJN)

**DECLARATION OF
EUGENE M. BELLIN
IN REPLY**

Eugene M. Bellin, an attorney admitted to practice before the Courts of the Sate of New York and before this Court, declares, under penalty of perjury, pursuant to 28 U.S.C. §1746, the following:

1. I am of counsel to the firm of Michelstein & Associates, PLLC, attorneys for plaintiff Shadeesha Brown.

2. I respectfully submit this Declaration in reply to the defendants' Response in Opposition to Plaintiff's Motion to review the Judgment Clerk's Award of Costs to the defendants and to strike the award of costs for daily copy transcripts of the trial of this matter.

3. The testimony of plaintiff Shadeesha Brown in the trial of this action began late in the afternoon of May 28, 2013. Her direct testimony was brief and cross-examination of the plaintiff began that afternoon and was completed the following morning. The plaintiff's testimony was neither complex nor lengthy.

4. The plaintiff vigorously and timely opposed the defendants' application to for costs for daily transcripts of the trial of this action, submitting a Declaration and a Memorandum of Law

in opposition to that application. Because the application was presented in the form of a motion, and because the plaintiff was filing opposition, counsel for the plaintiff believed that the application would be submitted to and decided by the Court rather than the clerk. With this in mind, I personally filed the Declaration and the Memorandum of Law in opposition to the application with the office of the Orders & Judgments Clerk on July 26, 2013, and inquired whether, in view of the fact that the application was being litigated, it would be determined by the clerk or submitted to the assigned judge. The clerk who accepted the plaintiff's opposition papers informed me that the matter would be submitted to the assigned judge. Consequently, when the Bill of Costs was filed I believed that it would be followed by a written decision by the Court and delayed filing the instant motion in that belief. (My belief that the application was being forwarded to the Court for a decision is also why I did not appear before the Orders & Judgments Clerk to oppose the application on July 31.)

4. For the foregoing reasons, the plaintiff's motion to strike the costs for the transcripts of the trial from the Bill of Costs in this matter should be granted.

Dated: August 23, 2013

s/ Eugene M. Bellin
Eugene M. Bellin (EB0722)
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